

IN THE CLAIMS:

Please cancel claim 7 and enter new claims 13 and 14:

13. (New) An antibody that binds to a protein having the amino acid sequence of
SEQ ID NO: 1.

D²
14. (New) The antibody of claim 13 further defined as monoclonal antibody
11/78/1 and having deposit number DSM ACC 2211.

REMARKS

This amendment is responsive to the Office Action dated February 17, 2000. Entry of the foregoing and favorable reconsideration of the subject application in light of the following remarks, pursuant to and consistent with 37 CFR §1.112, are respectfully requested.

First, the application has been amended above. In particular, the specification has been amended to include reference to priority applications as suggested in the Office Action, and to insert reference to the appropriate SEQ ID NOs. Also, claim 7 has been replaced by new claims 13 and 14 which more particularly claim the elected invention. Support for the new claims may be found on page 4, lines 18-20, and on page 5, lines 26-28. No new matter has been added.

Turning now to the Office Action, a new oath or declaration has been requested because the oath included in the papers filed on April 3, 1998 allegedly fails to

acknowledge the filing of PCT/DE96/01016. Further, the Office Action states that a translation of the foreign priority papers has not been made of record, and alleges that the application lacks reference to the foreign priority application. Applicants respectfully traverse.

According to Applicant's file and Applicant's copy of the Notification of Acceptance of Application Under 35 U.S.C. §371 mailed April 27, 1998, a translation of the international application into English was included with the materials received at the U.S. Patent & Trademark Office on April 3, 1998. Furthermore, a two-page Combined Declaration and Power of Attorney was included therewith that references PCT/DE96/01016 (see page 1) and recites the claim to foreign priority by reference to German application 195 21 046.8. Nevertheless, the application has been amended above to the refer to the priority applications as suggested in the Office Action. Withdrawal of these objections are respectfully requested.

Next, the drawings have been objected to as set forth on form PTO 948. Applicants respectfully request that this rejection be held in abeyance until which time allowable subject matter has been identified. Applicants will submit formal drawings at that time.

Next, claim 7 has been rejected under 35 U.S.C. §112, second paragraph because its dependence from non-elected claim 1 renders it vague and indefinite. In response, Applicants note that claim 7 has been canceled and new claims 13 and 14 have been submitted. New claim 13 is essentially claim 7 wherein the limitations of claim 1 have been incorporated. Withdrawal of this rejection is respectfully requested.

Claim 7 was also rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent #5,830,744, which allegedly discloses antibodies directed against a protein having DNase activity that is a functional derivative of SEQ ID NO: 1. Without necessarily agreeing with the rejection, Applicants note that claim 7 has been replaced by new claims 13 and 14 which do not encompass antibodies directed to functional derivatives of SEQ ID NO: 1. Rather, the new claims are directed to antibodies specific for the protein that is defined in SEQ ID NO: 1. Such antibodies would not necessarily recognize a functional derivative of SEQ ID NO: 1, because such a derivative has differences in amino acid sequence which could affect antibody binding. Accordingly, Rosen Patent #5,830,744 cannot be cited as §102(e) art against the present invention, and withdrawal of the rejection is respectfully requested.

Finally, claim 7 was rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over the combined disclosures of U.S. Patent #5,279,823 of Frenz et al., and U.S. Patent #5,830,744 of Rosen et al. Essentially, it is the Examiner's opinion that even though the Frenz patent does not teach antibodies directed to the functional derivative having DNase activity disclosed therein, such antibodies would be obvious to make in view of the teaching in Rosen et al. that polyclonal or monoclonal antibodies specific to a designated protein or peptide can be easily prepared by direct injection of the polypeptides into an animal. Applicants respectfully traverse this rejection.

Applicants respectfully note again that claim 7 has been replaced with new claim 13, which encompasses antibodies that bind to a protein having the amino acid sequence of SEQ

ID NO: 1. In contrast to original claim 7, new claim 13 is not directed to antibodies that are specific for functional derivatives of the protein defined by SEQ ID NO: 1. Given that the protein having DNase activity disclosed in the Frenz patent has a sequence that has only 53% identity with SEQ ID NO: 1, the DNase disclosed in the Frenz patent is quite different from that of the present invention. Accordingly, it follows that antibodies that bind to these proteins are also likely to have very different binding specificities. Thus, reconsideration and withdrawal of this rejection is respectfully requested.

The above amendments and remarks constitute a complete response to the Office Action. Accordingly, a Notice of Allowance is next in order. If there are any questions regarding this amendment and response, or with the application in general, the Examiner is respectfully requested to telephone the undersigned so that prosecution of the present application may be expedited.

Respectfully submitted,

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